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VIA HAND DELIVERY

Matthew Cohn, Esq.
United States Environmental Protection Agency
Legal Enforcement Program
Region 8
999 18th Street, Suite 300
Denver, Colorado 80202

**Re: Vermiculite Intermountain Superfund Site; Your November 23, 2005
Correspondence**

Dear Matt:

In response to your November 23, 2005 letter, please be advised that, on behalf of the Van Cott Trust, I am formally requesting to participate in the further negotiations toward a global settlement referenced in your letter. The on-going correspondence between the Van Cott Trust and EPA, my meeting with you of October 19, 2005, the telephone conversations we have had, and the Trust's continued interest in reaching a negotiated resolution of this matter all underscore the Trust's continuing interest in participating in whatever negotiations occur towards a global settlement at the Vermiculite Intermountain ("VI") Superfund Site.

It would greatly assist and expedite these global settlement negotiations if EPA would respond to the Trust's outstanding requests for information and documents, which in our view are relevant and necessary to informed negotiations and a reasonable allocation of responsibility. After our October 19th meeting, and my October 24th letter to you memorializing our information requests, I was expecting to receive some documentation from EPA, or at least a telephone call. I left our October 19th meeting with the clear understanding that EPA would provide us with various documents and information pertinent to the Van Cott Trust's past role at the Site; e.g., shipping invoices during the Trust's period of ownership.

Let me review the specific requests in my October 24, 2005 letter. I asked for:

"1. Any documentation relating to or bearing on the operation of the Site during the period 1941-1985. I understand from our conversation that this documentation is sparse, and may be limited to an incomplete set of shipping invoices.

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Even so, I would like to review what's available, as well as the summaries EPA has prepared, if possible. I would be happy to come to your offices at a convenient time for this purpose, if that would speed up matters."

I had understood from our October 19th meeting that EPA had no problem providing this information or access to it. Clearly, shipping invoices are highly relevant to the comparative responsibility of the Trust and other PRPs at the Site. I have received nothing and heard nothing further from you about this documentation, despite my offer to come to your offices at a convenient time if that would speed up matters.

We requested the following in the October 24th letter:

"2. The 104e responses from any of the other PRPs involved in the Site. My understanding is that, at the moment, the only other party who submitted a 104e response other than the Van Cott Trust was La Quinta, but that an additional 104e request will be going out to Frank Edwards within the next few weeks. Assuming EPA has not sent 104e requests to PacifiCorp and any other PRPs, we urge EPA do so as soon as possible. All PRPs should be under the same legal obligation to provide relevant information."

We appreciate your statement that EPA has sent a 104e information request to Frank Edwards. However, I have not yet received from EPA what you said at our October 19th meeting was the only other 104e response; namely, the 104e from La Quinta. Can you please provide us with the La Quinta 104e response? Also, we continue to believe it is essential for EPA to send a 104e request to PacifiCorp, given that PacifiCorp clearly is one of the major PRPs at the VI Superfund Site.

I requested the following as well:

"3. If you have received any submissions from PacifiCorp outside the 104e process, I would like to review those. Again, I would be happy to come to your offices at a convenient time for this purpose."

I have heard nothing further in response to this request, despite my offer to come to your office at a convenient time to review any such documents.

We made this request:

"4. When it becomes available, as we discussed, I'd like a copy of the DVD you are preparing of the Site Administrative Record."

At the time of our October 19th meeting, you indicated that a DVD of the Site Administrative Record would be forthcoming in the near future. Again, we would appreciate receiving a copy of that DVD.

I also made the following request:

"5. I understand you consider the owner of the Print Shop to be a contiguous property owner. I would like a copy of the Environmental Site Assessment or other documentation you are relying on for that conclusion."

If there is an Environmental Site Assessment or other documentation that relates to this topic, I assume it would be readily available, and would like the chance to review it.

We asked this question in my October 24th letter:

"6. . . . the Trust received a July 27, 2005, letter from EPA titled "Notice of Potential Liability for Removal Action," referencing EPA expended costs of approximately \$2.3 M. No other PRPs were shown as cc's or addressees of this Notification. We assume a similar letter was sent to the other PRPs, but would like confirmation whether or not this was done."

I would like to renew this question at this time, so that we know whether other PRPs (and if so, which ones) received a similar Notice letter.

Finally, I asked:

"7. A key issue here will be the application of EPA's Orphan Share Policy. I understood from our meeting that you are not intending to apply the Orphan Share Policy in this case, on the grounds that PacifiCorp and the Trust, as lessors to the party conducting the operations, were "affiliated" in a way that would exclude application of the Orphan Share Policy. Can you direct me to any EPA guidance documents or policy statements that address this interpretation of the "affiliated" concept?"

Again, it seems reasonable to ask if there are EPA guidance documents or policy statements that you are relying upon for your interpretation of the key term "affiliated".

In closing, I would like to renew the statement in the first paragraph of this letter that the Van Cott Trust **does** request to participate in the negotiations towards a global settlement. This is consistent with the statement made at the end of my October 24th letter, where I stated "[w]e agree with you that, all things considered, it would be preferable to settle instead of litigate this rather complex situation. . . . Your help in

providing the information we have requested will assist in moving matters forward. We look forward to working with you in the future.”

I would be glad to respond via telephone, e-mail (pphillips@hollandhart.com), or in person to any questions you may have in response to this letter. If you are temporarily out of pocket, Matt, I'd request that Kelcey Land or Joyce Ackerman assist us in responding to these requests for information.

Thank you for your help and cooperation.

Sincerely yours,

A handwritten signature in black ink that reads "Paul Phillips". The signature is written in a cursive, flowing style.

Paul D. Phillips
of Holland & Hart LLP

PDP:dc

cc: Kelcey Land, ENF-RC
Joyce Ackerman, EPR-SA
Kevin Murray, Esq.
Robin Main, Esq.
Michael Keller, Esq.
Brian W. Burnett, Esq.
Doug L. Abbott, Esq.
Jeffrey R. Becker, Esq.